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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,330	10/07/2003	Gregory C. Franke	200302308-2	5427

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Intellectual Property Administration
Legal Department, M/S 35
P.O. BOX 272400
Ft. Collins, CO 80527-2400

EXAMINER

SAKRAN, VICTOR N

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 11/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/680,330

Applicant(s)

FRANKE ET AL.

E

Examiner

VICTOR N SAKRAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 and 13-25 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-12 is/are allowed.
- 6) ☒ Claim(s) 26-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 26-33, are rejected under 35 U.S.C. 103(a) as being unpatentable over Blomquist U. S. Patent No. 6,061,239 in view of Lee U. S. Patent No. 6,108,207 (both are of record).

Blomquist discloses Applicant's claimed combination of a retaining clip for a heat sink (20), said retainer clip (30,31) comprising a main body (40), a pair of legs

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(42,43), each of said legs is provided with a connector members (tabs) (50,51) for engaging the main body to a bottom wall (12) and for securing the heat sink to said bottom wall and a cam latch-type rotatable arm extending outwardly from the clip body (40) and adapted to be rotated between a locked position and an unlocked position such that the locked position causing a securing force to be applied to the heat sink component which is disposed between the clip and the bottom wall and for disengaging the heat sink the rotatable arm will be rotated to the unlocked position causing the connector members (tabs) (50,51) to be released from the bottom wall (12) in order to disengage the heat sink; see Figures 2, 5, 8-10; the abstract; column 4, lines 35-42, 60-65, claims 1 and 2, except that the reference to Blomquist does not discloses the an additional removal arm extending outwardly from the clip and adapted to be pinched in order to disengage the tabs while the rotatable arm in the unlocked position. Lee discloses an integrally formed retainer clip for retaining a heat sink to a main body comprising a disengaging arm (17) extending outwardly from its clip (10) including a squeezing portion (16) which is disposed in such a way that when a pinching force is applied thereon the engaging leg (18) will be disengaged from its main body (40) and that will also disengage its heat sink (20) from its main body; see Figures 1-4; column 4, lines 21-31, and claim 1. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the retainer clip in Blomquist with an additional removal arm and to be extending outwardly from its clip in such a way that when a pinching force

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applied thereon and its rotatable arm rotated to the unlocked position its connector members (tabs) (50,51) will be disengaged from its main body for disengaging its heat sink in the manner taught, disclosed and suggested by Lee, especially, since such modification involves only routine skill in the art.

Furthermore, Applicant is reminded that in considering the disclosure of a reference, it is proper to take into account not only specific teaching of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom; see *In re Preda*, 401 F2d 825, 826, 159 USPQ 342,344 (CCPA1968).

Furthermore, to have the retainer clip of Blomquist integrally formed with the additional arm in the manner taught, and suggested by Lee, it would have been obvious to one having ordinary skill in the art at the time the invention was made, especially, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art; see *Howard v. Detroit Stove Works*, 150 U. S. 164 (1893).

Claims 10-12, are allowable over the prior art of record.

Claims 1-9 and 13-25, have been canceled.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant's attention is directed to the art of record, as showing structure related to Applicant's disclosed invention .

Response to Arguments

Applicant's arguments filed August 20, 2004 with respect to claims 26-33, have been fully considered but they are not persuasive. Since the reference to Blomquist discloses a retaining clip for a heat sink, the retainer clip including a main body, a pair of legs, each of said legs is provided with a connector members for engaging the main body to a bottom wall and for securing the heat sink to said bottom wall and a rotatable arm extending outwardly from substantially the center of the clip body and adapted to be rotated between a locked position and an unlocked position such that the locked position causing a securing force to be applied to the heat sink component which is disposed between the clip and the bottom wall and for disengaging the heat sink the rotatable arm will be rotated to the unlocked position causing the connector members to be released from the bottom wall in order to disengage the heat sink, and the secondary reference to Lee clearly teaches the use of an integrally formed retainer clip for retaining a heat sink to a main body comprising a disengaging arm extending outwardly from its clip and a squeezing portion which is disposed in such a way that when a

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pinching force is applied thereon the engaging leg will be disengaged from its main body and that will also disengage its heat sink from its main body.

In response to the court decisions cited on pages 6, 7, and 10, of Applicant's remarks have been noted, but are not considered to set forth any doctrine which would be applicable to negate the rejection. The cited court decisions are only a few of the many decisions that the Office follows when considering the patentability of the claims.

In response to applicant's argument that there is no motivation to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Furthermore, in an obviousness assessment, skill is presumed, on the part of the artisan, rather than the lack thereof. See *In Re Sovish*, 769 f. 2d 738, USPQ 771 (Fed. Cir. 1985).

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR N SAKRAN whose telephone number is 703-308-2224. The examiner can normally be reached on 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. swann can be reached on 703-308-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 1, 2004


VICTOR N SAKRAN
Primary Examiner
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